

IC 9-32-11

Chapter 11. Regulation of Vehicle Merchandising

IC 9-32-11-1

Persons required to be licensed

Sec. 1. (a) The following persons must be licensed under this article to engage in the business of buying or selling motor vehicles or semitrailers:

- (1) An automobile auctioneer.
 - (2) A converter manufacturer.
 - (3) A dealer.
 - (4) A distributor.
 - (5) A distributor representative.
 - (6) A factory branch.
 - (7) A factory representative.
 - (8) A manufacturer.
 - (9) A transfer dealer.
 - (10) A wholesale dealer.
 - (11) An automotive mobility dealer.
- (b) An automotive mobility dealer who engages in the business of:
- (1) selling, installing, or servicing;
 - (2) offering to sell, install, or service; or
 - (3) soliciting or advertising the sale, installation, or servicing of;

equipment or modifications specifically designed to facilitate use or operation of a vehicle by an individual who is disabled or aged must be licensed under this article.

As added by P.L.92-2013, SEC.78.

IC 9-32-11-2

Application for license; affidavits; bonds; membership in risk retention group

- Sec. 2. (a) An application for a license under this chapter must:
- (1) be accompanied by payment of the applicable fee required under IC 9-29-17;
 - (2) be on a form prescribed by the secretary;
 - (3) contain the information the secretary considers necessary to enable the secretary to determine fully:
 - (A) the qualifications and eligibility of the applicant to receive the license;
 - (B) the location of each of the applicant's places of business in Indiana; and
 - (C) the ability of the applicant to conduct properly the business for which the application is submitted; and
 - (4) contain evidence of a bond required in subsection (e).

An application for a wholesale dealer license must contain the additional information required in section 3 of this chapter.

(b) An application for a license as a dealer must show whether the applicant proposes to sell new or used motor vehicles, or both.

(c) An applicant who proposes to use the Internet or another

computer network to facilitate the sale of motor vehicles to consumers in Indiana shall, if the applicant's activities may result in the creation of business records outside Indiana, provide the division with the name, address, and telephone number of the person who has control of those business records. The secretary may not issue a license to a dealer who transacts business in this manner and does not have an established place of business in Indiana, except as proved under section 11(h) of this chapter.

(d) The application must include an affidavit from:

- (1) the person charged with enforcing a zoning ordinance, if one exists; or
- (2) the zoning enforcement officer under IC 36-7-4, if one exists;

who has jurisdiction over the real property where the applicant wants to operate as a dealer. The affidavit must state that the proposed location is zoned for the operation of a dealer's establishment. The applicant may file the affidavit at any time after the filing of the application. However, the secretary may not issue a license until the applicant files the affidavit.

(e) Except as provided in subsection (g), a licensee shall maintain a bond satisfactory to the secretary in the amount of twenty-five thousand dollars (\$25,000). The bond must:

- (1) be in favor of the state; and
- (2) secure payment of fines, penalties, costs, and fees assessed by the secretary after:
 - (A) notice;
 - (B) opportunity for a hearing; and
 - (C) opportunity for judicial review;

in addition to securing the payment of damages to a person aggrieved by a violation of this chapter by the licensee after a judgment has been issued.

(f) Service under this chapter shall be made in accordance with the Indiana Rules of Trial Procedure.

(g) Instead of meeting the requirement in subsection (e), a licensee may submit to the secretary evidence that the licensee is a member of a risk retention group that is regulated by the Indiana department of insurance.

As added by P.L.92-2013, SEC.78.

IC 9-32-11-3

Additional license application requirements for wholesale dealer

Sec. 3. In addition to the requirements of section 2 of this chapter, a license application for a wholesale dealer must contain the following:

- (1) A copy of a written lease that has a term of not less than one (1) year, if the established place of business is not owned by the applicant.
- (2) If the application is the initial application, photographs of the established place of business. The photographs must include but are not limited to the:

- (A) major exterior advertising sign; and
- (B) display and office building.

As added by P.L.92-2013, SEC.78.

IC 9-32-11-4

Wholesale dealers; standards for license to remain valid

Sec. 4. A wholesale dealer that has been issued a license under this chapter must maintain the following standards for the license to remain valid:

- (1) A conspicuous permanent sign with letters at least six (6) inches high bearing:
 - (A) the business name of the wholesale dealer; and
 - (B) the hours of operation of the wholesale dealer;must be located on the exterior of the established place of business of the wholesale dealer.
- (2) The office of the wholesale dealer must be:
 - (A) housed at the established place of business of the wholesale dealer;
 - (B) at least one hundred (100) square feet; and
 - (C) served with utilities such as electricity, lighting, heat, and a business telephone exclusively for the use of the wholesale dealer.
- (3) The wholesale dealer or an employee of the wholesale dealer must be present for the purposes of inspection of records at the established place of business of the wholesale dealer during the posted hours of operation of the business of the wholesale dealer.
- (4) All business records of the wholesale dealer must be kept at the licensed place of business of the wholesale dealer.

As added by P.L.92-2013, SEC.78.

IC 9-32-11-5

Franchise; filing with secretary of state

Sec. 5. A manufacturer, distributor, factory branch, or dealer proposing to sell new motor vehicles shall file and maintain with the secretary:

- (1) a current copy of each franchise to which the person is a party; or
- (2) if the person is a party to multiple franchises that are identical except for stated items, a copy of the franchise form with supplemental schedules of variations from the form.

As added by P.L.92-2013, SEC.78.

IC 9-32-11-6

Display of license; change of business name or location; application for approval of change

Sec. 6. (a) The license issued to a factory branch, an automobile auctioneer, a transfer dealer, or a dealer under this chapter:

- (1) must specify the location of each place of business; and
- (2) shall be conspicuously displayed at each business location.

(b) If a licensee's business name or location is changed, the licensee shall notify the secretary not later than ten (10) days after the change and remit the fee required under IC 9-29-17. The secretary shall endorse the change on the license if the secretary determines that the change is not subject to other provisions of this article.

(c) A dealer who uses the Internet or another computer network to facilitate the sale of motor vehicles as set forth in section 2(c) of this chapter shall notify the secretary not later than ten (10) days after any change in a name, address, or telephone number documented in business records located outside Indiana that have been created in transactions made in Indiana by the dealer. A report made under this subsection is not subject to the fee required under IC 9-29-17.

(d) A dealer who wants to change a location must submit to the secretary an application for approval of the change. The application must be accompanied by an affidavit from:

- (1) the person charged with enforcing a zoning ordinance described in this subsection; or
- (2) the zoning enforcement officer under IC 36-7-4, if one exists;

who has jurisdiction over the real property where the applicant wants to operate as a dealer. The affidavit must state that the proposed location is zoned for the operation of a dealer's establishment. The secretary may not approve a change of location or endorse a change of location on the dealer's license until the dealer provides the affidavit.

(e) For the purpose of this section, an offsite license issued under section 11 of this chapter does not constitute a change of location.
As added by P.L.92-2013, SEC.78.

IC 9-32-11-7

License issued to representative; name of employer; change of employer; display of license; temporary license for representative

Sec. 7. A license issued to a factory representative or distributor representative must state the name of the representative's employer. Within ten (10) days after a change of employer, the licensee shall mail the license to the secretary and indicate the name and address of the licensee's new employer. The secretary shall endorse the change on the license and return the license to the licensee in care of the new employer of the licensee. A factory representative, distributor representative, or wholesale dealer must have a license when engaged in business and shall display the license upon request. A temporary license for a factory representative or distributor representative may be issued for a period of not more than one hundred twenty (120) days pending investigation by the secretary of the representative's qualification for a license.

As added by P.L.92-2013, SEC.78.

IC 9-32-11-8

Application for and renewal of automotive mobility dealer's license

Sec. 8. The secretary shall, by rules adopted under IC 4-22-2, establish requirements for an initial application for and renewal of an automotive mobility dealer's license. The rules must include a requirement that each initial or renewal application for an automotive mobility dealer's license include proof that the applicant is accredited through the Quality Assurance Program of the National Mobility Equipment Dealers Association.

As added by P.L.92-2013, SEC.78.

IC 9-32-11-9

Automotive mobility dealers; display, inventory, advertising, and offering for sale adapted vehicles

Sec. 9. An automotive mobility dealer licensed under this chapter is entitled to:

- (1) display;
- (2) inventory;
- (3) advertise;
- (4) offer for sale; or
- (5) do any combination of subdivisions (1) through (4) concerning;

any adapted vehicle.

As added by P.L.92-2013, SEC.78.

IC 9-32-11-10

Vehicle sales made away from dealer's place of business without offsite sales license; exception

Sec. 10. This section does not apply to sales made at a motor vehicle industry sponsored trade show. A dealer may not sell or offer to sell a vehicle at a location away from the dealer's established place of business without obtaining an offsite sales license under section 11 of this chapter.

As added by P.L.92-2013, SEC.78.

IC 9-32-11-11

Offsite sales license

Sec. 11. (a) Except as provided in subsections (b) through (g), the secretary shall issue an offsite sales license to a dealer licensed under this chapter who submits an application for the license not later than ten (10) business days or two (2) calendar weeks before the offsite sale date. License applications under this section shall be made public upon the request of any person.

(b) The secretary may not issue an offsite sales license to a dealer who does not have an established place of business within Indiana.

(c) This subsection does not apply to:

- (1) new manufactured housing dealers;
- (2) recreational vehicle dealers;
- (3) a rental company that is a dealer conducting a sale at a site within twenty (20) miles of any of its company owned affiliates;
- (4) off-road vehicle dealers; or

(5) dealers of vehicles classified as classic, collector, or antique under rules adopted under section 18(a)(2)(B) of this chapter. The secretary may not issue an offsite sales license to a licensed dealer proposing to conduct a sale outside a radius of twenty (20) miles from the established place of business of the licensed dealer.

(d) A vehicle display is not considered an offsite sale if it is conducted by a new vehicle franchised dealer in an open area where no sales personnel and no sales material are present.

(e) The secretary may not issue an offsite sales license to a licensed dealer proposing to conduct an offsite sale for more than ten (10) calendar days.

(f) As used in this subsection, "executive" has the meaning set forth in IC 36-1-2-5. The secretary may not issue an offsite sales license to a licensed dealer if the dealer does not have certification that the offsite sale would be in compliance with local zoning ordinances or other local ordinances. Authorization under this subsection may be obtained only from the following:

(1) If the offsite sale would be located within the corporate boundaries of a city or town, the executive of the city or town.

(2) If the offsite sale would be located outside the corporate boundaries of a city or town:

(A) except as provided in clause (B), the executive of the county; or

(B) if the city or town exercises zoning jurisdiction under IC 36-7-4-205(b) over the area where the offsite sale would be located, the executive of the city or town.

(g) The secretary may not issue an offsite sales license to a licensed dealer who has held more than three (3) nonconsecutive offsite sales in the year ending on the date of the offsite sale for which the license application is being submitted.

(h) Section 2(c) of this chapter does not apply to the application or issuance of an offsite sales license under this section.

As added by P.L.92-2013, SEC.78.

IC 9-32-11-12

Duration of license; expiration schedule

Sec. 12. A license issued under this chapter is valid for a one (1) year period in accordance with the following schedule:

(1) A person whose business name begins with the letters A through B, inclusive, shall register before March 1 of each year.

(2) A person whose business name begins with the letters C through D, inclusive, shall register before April 1 of each year.

(3) A person whose business name begins with the letters E through G, inclusive, shall register before May 1 of each year.

(4) A person whose business name begins with the letters H through I, inclusive, shall register before June 1 of each year.

(5) A person whose business name begins with the letters J through L, inclusive, shall register before July 1 of each year.

(6) A person whose business name begins with the letters M through O, inclusive, shall register before August 1 of each

year.

(7) A person whose business name begins with the letters P through R, inclusive, shall register before September 1 of each year.

(8) A person whose business name begins with the letters S through T, inclusive, shall register before October 1 of each year.

(9) A person whose business name begins with the letters U through Z, inclusive, shall register before November 1 of each year.

A sole proprietor shall register based upon the name of the sole proprietorship.

As added by P.L.92-2013, SEC.78.

IC 9-32-11-13

Transfer or assignment of motor vehicle title

Sec. 13. A person licensed under this article may transfer or assign a title for a motor vehicle.

As added by P.L.92-2013, SEC.78.

IC 9-32-11-14

Liability insurance or garage liability insurance coverage

Sec. 14. (a) A person licensed under this article shall furnish evidence that the person has liability insurance or garage liability insurance covering the person's place of business. The policy must have limits of at least the following:

(1) One hundred thousand dollars (\$100,000) for bodily injury to one (1) person.

(2) Three hundred thousand dollars (\$300,000) for bodily injury for each accident.

(3) Fifty thousand dollars (\$50,000) for property damage.

(b) The minimum amounts required by subsection (a) must be maintained during the time the license is valid.

As added by P.L.92-2013, SEC.78.

IC 9-32-11-15

Cessation of business activity

Sec. 15. (a) A person who ceases a business activity for which a license was issued under this chapter shall do the following:

(1) Notify the secretary of the date that the business activity will cease.

(2) Deliver to the secretary all permanent dealer license plates and interim license plates issued to the person not later than ten (10) days after the date the business activity will cease.

(b) A dealer may not transfer or sell the:

(1) dealer's license; or

(2) use of the dealer's license.

(c) A dealer that changes its form of organization or state of incorporation may continue the dealer's licensure by filing an amendment to the registration if the change does not involve a

material fact in the financial condition or management of the dealer. The amendment becomes effective when filed or on the date designated by the registrant in its filing. The new organization is a successor to the original registrant for the purposes of this article.

(d) If there is a change in the dealer's ownership, the successive owner shall file a new application for a license under this chapter.

As added by P.L.92-2013, SEC.78.

IC 9-32-11-16

Deposit of revenues in motor vehicle highway account

Sec. 16. Except as provided in IC 9-29-17, all revenues accruing to the secretary under this chapter shall be deposited in the motor vehicle highway account under IC 8-14-1.

As added by P.L.92-2013, SEC.78.

IC 9-32-11-17

Sale of motor vehicle through Internet

Sec. 17. A dealer who sells a motor vehicle through the use of the Internet or another computer network shall deliver the motor vehicle to the customer, or the customer's representative, at the place of business of the dealer in Indiana.

As added by P.L.92-2013, SEC.78.

IC 9-32-11-18

Special event permits

Sec. 18. (a) A person licensed under this article shall be issued a special event permit from the secretary for a special event that meets the following conditions:

(1) The event is a vehicle auction conducted by auctioneers licensed under IC 25-6.1-3.

(2) The vehicles to be auctioned are:

(A) at least fifteen (15) years old; or

(B) classified as classic, collector, or antique vehicles under rules adopted by the secretary.

(3) At least one hundred (100) vehicles will be auctioned during the special event.

(4) The licensee submits to the secretary an application for a special event permit not later than thirty (30) days before the beginning date of the special event.

(5) The application under subdivision (4) is accompanied by the permit fee required under IC 9-29-17-13.

(b) Not more than two (2) special event permits may be issued by the secretary to the same applicant within a twelve (12) month period.

As added by P.L.92-2013, SEC.78.